

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i 96813

July 25, 2008

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Subject: Request for Approval for mutual retroactive cancellation of the Mobile Food Concession Agreement SP 0053 at Wailua River State Park (Opaekaa Falls Lookout) for the period of June 01, 2008 to September 31, 2008.

Previously, the Board authorized mobile food concessions at a number of Division of State Parks' locations. The Division of State Parks recently completed an open public auction process regarding concession services at locations throughout the islands. One of which was the Wailua River State Park (Opaekaa Falls Lookout) location, the subject of this memorandum. The winning mobile concession for this park was H & M Partners. The term of this agreement with H & M Partners (H& M Foods, Inc) was from November 1, 2005 to September 31, 2008, three years with a fixed rent of \$1,550.00 per month.

The Concession Agreement required H & M Partners to provide mobile concessions in the Wailua River State Park (Opaekaa Falls Lookout) location which they have up until 06/01/2008. However, there have been difficulties in generating enough interest to support a mobile concession at this location due to the major construction of the sewer line and comfort station that has been taking place for several months. This has created too much of a hardship for the Mobile Food Concessionaire and they are requesting a release from their contract which they have requested in writing (see attached "Item A").

This location has been included by the board for the upcoming Invitation for Bid for a new Mobile Food Concessionaires and should do well for another Mobile Food Concessionaire now that the construction has been completed.

ITEM E-2

RECOMMENDATIONS:

That the Board agrees to:

1. Authorize the mutual retroactive cancellation of SP 0053 Concession Agreement and delegate the authority to the Chairperson to execute all relevant documents on behalf of the Board with approval as to form by the Attorney General's office; and
2. Approve using the Concession Agreement performance bond of \$ 3100. toward the amount of the remainder of the agreement; and
3. The Board approves such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully submitted,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson

Item "A"

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H&M Foods, Inc
C/o Daniel Hempey
4698 Pelehu St.
Kapaa, HI 96766
(808) 635-4367

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DEPT OF LAND &
NATURAL RESOURCES

Dan Quinn, Director State Parks,
Department of Land and Natural Resources,
Division of State Parks,
1151 Punchbowl Street, Room 310,
Honolulu, Hawai'i 96813

Re: Wailua River Concession

Dear Dan:

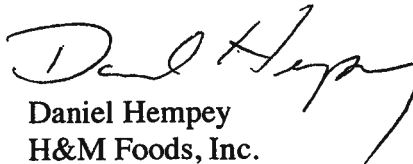
Per our telephone conversation today, I am writing to ask the Land Board to consider early termination of our concession contract at Opaekaa Falls in the Wailua River State Park.

As you may know, we have been unable to conduct business there in recent months. This is due primarily to the extensive sewer and bathroom renovations at the site. We have tried several different vendors and they all quit, telling us that no one buys food next to the sewer/bathroom repair and all of the associated heavy equipment.

I have enclosed a photo I took yesterday. As you can see, our vending site is directly behind the sewer repair sign and adjacent to the new portable toilets. It is clearly not a location where anyone would want to buy food.

The situation has been going on for several months and we have faithfully paid rent, despite the inability to generate income at the site. I think that we would have three rent checks due before the contract expires naturally and our bid bond and performance bond are returned to us. I am requesting that the Board consider releasing us from this contract and refunding the various bond payments early, in light of the conditions at the site.

I anxiously await your response.


Daniel Hempey
H&M Foods, Inc.

STATE
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WAILUA RIVER STATE PARK
NEW COMFORT STATION AND
SEWER SYSTEM IMPROVEMENTS
DEPARTMENT OF LAND & NATURAL RESOURCES
GOVERNOR LINDA LINGKE